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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,707	12/22/2004	Hans Olsen	P70301US0	2595

136 7590 10/05/2005

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EXAMINER

POUS, NATALIE R

ART UNIT PAPER NUMBER

3731

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/518,707	<b>Applicant(s)</b> OLSEN, HANS	
	<b>Examiner</b> Natalie Pous	<b>Art Unit</b> 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                           |                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                      | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/6/05</u> | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The apparatus should be outlined by claim language, not by reference characters to drawings. When reference characters are removed, claim 1 is unclear. For example, line 19 discloses "said lines," without the reference characters, it is unclear which "said lines" claim 1 is referring to, due to the fact that there are numerous lines disclosed in claim 1. Claims should be able to stand independent of reference characters and still distinctly claim the subject matter.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Peddle (US 973296).

Regarding Claim 1, Peddle discloses a pair of scissors (Fig. 1) consisting of two elements rotationally movably assembled (5, 6) in a hinge (7), the orientation of said elements being in a plane essentially perpendicular to the axis of said hinge and said movement relative to each other from a closed position to an open position taking place in said plane, each of said elements consisting of a blade (6) and an arm (8), said blades and said arms having hinge ends defined by said hinge and distal ends, said blades being an upper blade (5) and a lower blade (6) in a position of use, said blades having cutting edges (10, 11) and back edges, each of said arms terminating in a ring (9) for accommodating a finger of the user, said rings in a closed position of the scissors defining an outer angle defined by lines from said hinge point as tangents to said rings, wherein said blades have a general direction represented by a line, wherein said arms have a general direction indicated by a line defined as the bisecting line of said angle, said lines and making an angle large enough to place both of said rings entirely on the same side of an extension of said direction line of said blades, wherein said blades are curved (10, 11) and wherein said distal end of said back edge of said upper blade has a nose part protruding a distance from the distal end of the cutting edge of the upper blade and having a distance from the cutting edge of the lower blade in a closed position of the scissors (12, lines 66-75).

Regarding Claim 3, Peddle discloses a pair of scissors according to claim 1, wherein said distal end of said back edge of said upper blade stands a distance above said cutting edge of said lower blade in a closed position of the scissors (Fig 3).

Regarding Claim 4, Peddle discloses a pair of scissors according to claim 1 wherein the main part of said lower blade is shaped as if terminating in a pointed distal end (10).

Regarding Claim 8, Peddle discloses a pair of scissors according to claim 1 wherein at least one of said cutting edges is provided with a non-slip surface (Lines 64-67).

Claims 1 and 3-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kimmel (US 3084433).

Regarding Claim 1, Kimmel discloses a pair of scissors (Fig. 1) consisting of two elements rotationally movably assembled (10, 11) in a hinge (12), the orientation of said elements being in a plane essentially perpendicular to the axis of said hinge and said movement relative to each other from a closed position to an open position taking place in said plane, each of said elements consisting of a blade (10, 11) and an arm (10a, 11a), said blades and said arms having hinge ends defined by said hinge and distal ends, said blades being an upper blade (11) and a lower blade (10) in a position of use, said blades having cutting edges (10, 11) and back edges, each of said arms terminating in a ring (10b, 11b) for accommodating a finger of the user, said rings in a closed position of the scissors defining an outer angle defined by lines from said hinge point as tangents to said rings, wherein said blades have a general direction represented by a line, wherein said arms have a general direction indicated by a line defined as the bisecting line of said angle, said lines and making an angle large enough

to place both of said rings entirely on the same side of an extension of said direction line of said blades, wherein said blades are curved (14, 15) and wherein said distal end of said back edge of said upper blade has a nose part protruding a distance from the distal end of the cutting edge of the upper blade and having a distance from the cutting edge of the lower blade in a closed position of the scissors (15, Column 1 lines 57-63).

Regarding Claim 3, Kimmel discloses a pair of scissors according to claim 1 wherein said distal end of said back edge of said upper blade stands a distance above said cutting edge of said lower blade in a closed position of the scissors (15).

Regarding Claim 4, Kimmel discloses a pair of scissors according to claim 1 wherein the main part of said lower blade is shaped as if terminating in a pointed distal end (10).

Regarding Claim 5, Kimmel discloses a pair of scissors according to claim 1 wherein said lower blade (10) is provided with a bulb (16).

Regarding Claim 6, Kimmel discloses a pair of scissors according to claim 1 wherein said back edge of said lower blade is provided with a chamfer inwardly (Fig 4, 16).

Regarding Claim 7, Kimmel discloses a pair of scissors according to claim 1 wherein said back edge of said lower blade is provided with an inwardly placed rounding (Fig 5, lowermost portion of 10).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3731

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kimmel in view of Goldstone (US 2619965).

Kimmel teaches all aspects of claim 1 as discussed previously, but does not teach a pair of scissors wherein said upper and lower blades have a difference of lengths, the lower blade being the longer. Goldstone teaches a pair of scissors wherein the lower blade (12) is longer (20) than the upper blade (14) in order to probe tissue before cutting it to make sure the cut will be in the correct location. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kimmel with a longer lower blade as taught by Goldstone in order to probe tissue before cutting it to make sure the cut will be in the correct location.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kimmel in view of Parker (US 1956587).

Kimmel teaches all aspects of claim 1 as discussed previously, but does not teach a pair of scissors wherein at least one of said cutting edges is making an angle of

less than 75 degrees with said plane. Parker teaches a pair of scissors wherein cutting edges make an angle of about 70 degrees with shear plane s-p (Figure 2a). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kimmel with the cutting edges of Parker in order to produce the best shearing action, being a cleaner more precise cut.

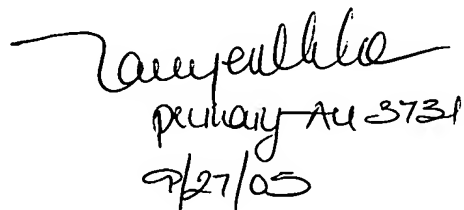
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie Pous whose telephone number is (571) 272-6140. The examiner can normally be reached on Monday-Friday 8:00am-5:30pm, off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NRP

  
Nancy A 3731  
9/27/05